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(1) The nature and extent of such emergency throughout a state or in any part of a state;

(2) The situation or extraordinary circumstances which produced such emergency;

(3) The availability of state and local criminal justice resources to resolve the problem;

(4) The cost associated with the increased Federal presence;

(5) The need to avoid unnecessary Federal involvement and intervention in matters primarily of state and local concern; and,

(6) Any assistance which the state or other appropriate unit of government has received, or could receive, under any provision of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

(b) *Review process.* (1) The Attorney General shall consult with the Assistant Attorney General, Office of Justice Programs, and the Director, Bureau of Justice Assistance, on requests for grant assistance.

(2) All requests for assistance of the Federal law enforcement community (e.g., equipment, training, information, or personnel) shall be reviewed by the Attorney General in consultation with appropriate members of the Federal law enforcement community, including the United States Attorney(s) in the affected District(s). Such requests will be subject to statutory restrictions, including section 609O on Federal agency activities.

(3) The Attorney General will approve or disapprove each application, submitted in accordance with these regulations, no later than ten (10) days after receipt.

Subpart F—Additional Requirements

§ 65.50 General.

This subpart sets forth additional requirements under the Justice Assistance Act. Applicants for assistance must assure compliance with each of these requirements.

§ 65.51 Recordkeeping.

(a) The state must assure that it adheres to the recordkeeping requirements enumerated in OMB Circulars,

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Number A–102 and Number A–128. This requirement extends to participating units of local government, in that they are viewed as the state’s subgrantees.

(b) The Attorney General and the Comptroller of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of recipients of Federal law enforcement assistance provided under this subdivision which, in the opinion of the Attorney General or the Comptroller General, are related to the receipt or use of such assistance.

§ 65.52 Civil rights.

The Act provides that “no person in any state shall on the grounds of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any programs or activity funded in whole or in part with funds made available under this title.” Recipients of funds under the Act are also subject to the provisions of title VI of the Civil Rights Act of 1964; section 504 of the Rehabilitation Act of 1973, as amended; title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Non-Discrimination Regulations 28 CFR part 42, subparts C, D, E, and G.

§ 65.53 Confidentiality of information.

Section 812 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as amended and implemented by 28 CFR part 20) shall apply with respect to information, including criminal history information and criminal intelligence systems operating with the support of Federal law enforcement assistance.

Subpart G—Repayment of Funds

§ 65.60 Repayment of funds.

(a) If Federal law enforcement assistance provided under this subdivision is used by the recipient of such assistance in violation of these regulations, or for any purpose other than the purpose for which it is provided, then such recipient shall promptly repay to the Attorney General an amount equal to the value of such assistance.

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(b) The Attorney General may bring a civil action in an appropriate United States District Court to recover any amount authorized to be repaid under law.

Subpart H—Definitions

§ 65.70 Definitions.

(a) *Law enforcement emergency*. The term *law enforcement emergency* is defined by the Act as an uncommon situation which requires law enforcement, which is or threatens to become of serious or epidemic proportions, and with respect to which state and local resources are inadequate to protect the lives and property of citizens, or to enforce the criminal law. The Act specifically *excludes* the following situations when defining “law enforcement emergency”:

(1) The perceived need for planning or other activities related to crowd control for general public safety projects; and,

(2) A situation requiring the enforcement of laws associated with scheduled public events, including political convention and sports events.

(b) *Federal law enforcement assistance*. The term *Federal law enforcement assistance* is defined by the Act to mean funds, equipment, training, intelligence information, and personnel.

(c) *Federal law enforcement community*. The term *Federal law enforcement community* is defined by the Act as the heads of the following departments or agencies:

- (1) Federal Bureau of Investigation;
- (2) Drug Enforcement Administration;
- (3) Criminal Division of the Department of Justice;
- (4) Internal Revenue Service;
- (5) Customs Service;
- (6) Department of Homeland Security;
- (7) U.S. Marshals Service;
- (8) National Park Service;
- (9) U.S. Postal Service;
- (10) Secret Service;
- (11) U.S. Coast Guard;
- (12) Bureau of Alcohol, Tobacco, Firearms, and Explosives;
- (13) National Security Division of the Department of Justice; and

(14) Other Federal agencies with specific statutory authority to investigate violations of Federal criminal law.

(d) *State*. The term *state* is defined by the Act as any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

[50 FR 51340, Dec. 16, 1985, as amended by Order No. 2865-2007, 72 FR 10069, Mar. 7, 2007]

Subpart I—Immigration Emergency Fund

SOURCE: Order No. 1892-94, 59 FR 30522, June 14, 1994, unless otherwise noted.

§ 65.80 General.

The regulations of this subpart set forth procedures for implementing section 404(b) of the Immigration and Nationality Act (“INA”), 8 U.S.C. 1101 note, by providing for Presidential determinations of the existence of an immigration emergency, and for payments from the Immigration Emergency Fund or other funding available for such purposes, to State and local governments for assistance provided in meeting an immigration emergency. The regulations of this subpart also establish procedures by which the Attorney General may draw upon the Immigration Emergency Fund, without a Presidential determination that an immigration emergency exists, to provide funding to State and local governments for assistance provided as required by the Attorney General in certain specified circumstances.

[Order No. 1892-94, 59 FR 30522, June 14, 1994, as amended by Order No. 2601-2002, 67 FR 48359, July 24, 2002]

§ 65.81 General definitions.

As used in this part:

Assistance means any actions taken by a State or local government directly relating to aiding the Attorney General in the administration of the immigration laws of the United States and in meeting urgent demands arising from the presence of aliens in the State or local government’s jurisdiction, when such actions are taken to assist